

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LINDA PAULINE ERVIN,

Plaintiff,

v.

Civ. No. 23-823 GBW

MARTIN O'MALLEY,
*Commissioner of the Social Security
Administration,*¹

Defendant.

ORDER GRANTING STIPULATED ATTORNEY FEES

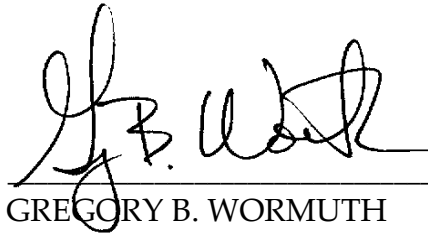
THIS MATTER comes before the Court on parties' Stipulated Motion for Equal Access to Justice (EAJA) Attorney Fees. *Doc. 15*. The parties have stipulated to an award of \$1,381.90 in attorney fees to Plaintiff and reimbursement of the filing fee of \$402.00 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 ("EAJA").

IT IS HEREBY ORDERED that Plaintiff is awarded \$1,381.90 in attorney fees and reimbursement of the filing fee of \$402.00 under the EAJA. The EAJA fees will be paid to Plaintiff but delivered to Plaintiff's attorney. *See Astrue v. Ratliff*, 560 U.S. 586, 595–98 (2010); *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007); *Brown v. Astrue*, 271 F. App'x 741, 743–44 (10th Cir. 2008) (unpublished).

¹ Martin O'Malley is now the Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Martin O'Malley should be substituted for Acting Commission Kilolo Kijakazi as the defendant in this suit.

IT IS FURTHER ORDERED that, if Plaintiff's attorney ultimately receives an award of attorney fees pursuant to 42 U.S.C. § 406(b), said attorney must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is written over a horizontal line.

GREGORY B. WORMUTH
CHIEF UNITED STATES MAGISTRATE JUDGE
Presiding by Consent